



GUIDANCE ON MICHIGAN'S NO EXPOSURE CERTIFICATION FOR EXCLUSION FROM THE STORM WATER PERMIT PROGRAM

This guidance provides information on Michigan's no exposure certification for exclusion from the permitting program for the discharge of storm water regulated under the National Pollutant Discharge Elimination System (NPDES).

Who May File a No Exposure Certification

The Phase II Final Rule, published December 8, 1999, allows for a conditional no exposure exclusion to be applied to ALL industrial categories listed in the 1990 storm water regulations, except for construction activities.

Definition of "No Exposure"

"No Exposure" means all industrial materials and activities are protected by a storm resistant shelter to prevent exposure of rain, snow, snowmelt, and/or runoff.

Industrial materials or activities include, but are not limited to, material handling, equipment, industrial machinery, raw materials, intermediate products, by-products, final products, waste materials, etc.

The term "storm-resistant shelter" includes completely roofed and walled buildings. Structures with only a roof are included provided material under the structure is not subject to any run-on and subsequent runoff of storm water. Temporary controls may be acceptable on a case by case basis.

The intent of the no exposure exclusion is to provide facilities with materials and activities entirely sheltered from storm water a simplified way of complying with the storm water permitting requirements.

A storm resistant shelter is not required for the following industrial materials and activities:

- Adequately maintained vehicles used in material handling activities; and
- Final products that are intended for use outside provided the products, materials, or treatments associated with the final product would not be mobilized in storm water discharges. Containers, racks, and other transport platforms (i.e., wooden pallets) used for the storage or conveyance of these final products can also be stored outside provided the containers, racks, and platforms are pollutant-free.
- Storage of sealed (sealed by manufacture & never subsequently opened), unopened drums, barrels, tanks, and similar containers that are tightly sealed (banded or otherwise secured and without an operational tap or valve), provided the containers are not deteriorated or otherwise damaged, are not stored in direct contact with the ground or pavement, are protected from damage from vehicles and equipment, have no residuals on the outside, and they do not leak.

While the intent of the no exposure provision is to promote a condition of permanent no exposure, it is understood that certain vehicles could become temporarily exposed to rain and snow while passing between buildings. Thus, adequately maintained vehicles (trucks, automobiles, forklifts, trailers, or other such general purpose vehicles) that are not industrial machinery, and are not leaking contaminants, and are not otherwise a source of industrial pollutants can be exposed to precipitation and runoff. Such activities would not prevent a facility from qualifying for the no exposure exclusion.

The Phase II Final Rule also addresses particulate matter emissions from roof stacks/vents that are regulated by and in compliance with, other environmental protection programs (air quality control programs). Roof vents at a facility which are in compliance with air quality programs are not considered exposure, provided there is no particulate evident in the storm water runoff, and the vents do not otherwise cause contamination of the storm water runoff.

Secondary containment structures and the materials enclosed within them are considered "Not Exposed" and do not require storm resistant shelter provided storm water accumulated within the containment is not discharged to waters of the state. However, secondary containment structures must be managed and maintained in such a way as to effectively eliminate the potential for impact on the storm water runoff.

General refuse and trash, not of an industrial nature is not considered exposure. However, measures (covering containers, good housekeeping practices, etc.) should be taken to minimize the impact of such material on the storm water runoff.

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Facilities seeking exclusion from the storm water permitting program are also required to conduct an investigation to determine whether or not there are any unauthorized non-storm water discharges to the storm water system. Any such discharges must be removed or discharge authorization must be obtained.

If the facility currently has authorization to discharge storm water associated with industrial activities, then the no exposure certification form can be submitted as a termination request provided:

- The basis for the termination request is that there is no exposure of materials to storm water, and
- Upon conducting a facility inspection it is determined that the facility meets the no exposure exclusion requirements.

General Requirements

An operator seeking to qualify for this conditional no exposure exclusion must:

- Submit written certification that the facility meets the definition of "no exposure" to the Michigan Department of Environmental Quality (MDEQ), Surface Water Quality Division (SWQD) once **every 5 years**. A copy of the "No Exposure Certification" form is available upon request.
- For facilities that discharge through a municipal separate storm sewer system (MS4) must, upon request, submit a copy of the certification to the MS4 operator.
- Allow the MDEQ, or the MS4 operator, to:
 - Inspect the facility
 - Make such inspection reports publicly available upon request.

What if the Condition of "No Exposure" is not maintained?

The no exposure exclusion is conditional. Therefore, if there is a change in circumstances that causes exposure of industrial activities or materials to storm water, the operator is required to comply immediately with all requirements of the storm water program, including obtaining a permit.

Where a facility operator determines that exposure is likely to occur in the future due to some anticipated change at the facility, the operator should obtain a permit prior to the discharge of storm water associated with industrial activities.

Regulated industrial operators need to either apply for a permit or submit a no exposure certification form in order to be in compliance with the NPDES storm water regulations.

Failure to maintain the condition of no exposure or obtain a permit to discharge can lead to the unauthorized discharge of pollutants to waters of the state. Such a discharge is a violation of the Federal Water Pollution Control Act and the Natural Resources and Environmental Protection Act, P.A. 451, and is subject to fines and penalties of those acts.

Even when an industrial operator certifies there is no exposure, MDEQ retains the authority to require the facility to obtain a permit if it is determined that there is exposure at the facility, or that the discharge of storm water is contributing to the violation of water quality standards.

If you have any further questions regarding the no exposure certification please contact the appropriate district office. Please find district contact information at www.michigan.gov/deqstormwater